DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201501026

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

OCT 07 2014

Uniform Issue List: 408.03-00

T:EP:RA:T1

LEGEND:

Taxpayer A =

IRA B =

Financial Institution C =

Financial Institution D =

Financial Advisor E =

Financial Advisor F=

Plan G =

Account H =

Individual I =

Amount 1 =

Amount 2 =

Dear :

This is in response to your letter dated June 26, 2014, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A represents that he received a distribution of Amount 2 from his Individual Retirement Account (IRA), IRA B. Taxpayer A asserts that his failure to accomplish a rollover of Amount 1 (which represents a portion of Amount 2) within the 60-day period prescribed by section 408(d)(3) of the Code was due to a mistake by employees of Financial Institution C, which resulted in Amount 1 being distributed from IRA B in error. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A maintains retirement account balances in more than one retirement plan. Taxpayer A attained age 70 ½ in , and Taxpayer A became subject to the required minimum distribution (RMD) rules in , as required by Code section 401(a)(9).

Taxpayer A decided to take his first RMD in tax year . Taxpayer A approached Financial Advisors E and F, who were both employed by Financial Institution C, to calculate his RMDs for tax year . Financial Advisor F advised Taxpayer A, via email, that Financial Advisor E had calculated Taxpayer A's RMDs for for his retirement accounts, which included, among others, IRA B and Plan G, the latter of which was maintained at Financial Institution D. Rather than provide a separate breakdown of the RMD amounts for IRA B and Plan G for tax year , Financial Advisor F only gave Taxpayer A the total sum of Amount 2—the combined RMD amounts for IRA B and Plan G. Financial Advisor F also indicated that the RMDs must be distributed before . Soon after, Taxpayer A emailed Financial Advisor F to confirm whether he could take the RMD amounts for both IRA B and Plan G from one retirement plan, or if separate distributions were required from both IRA B and Plan G. Taxpayer A represents that in response to his email, he received telephone confirmation that he could satisfy the RMDs for IRA B and Plan G by taking distributions from a single account.

Based on this advice, Taxpayer A represents that he requested that the total RMDs for with respect to IRA B and Plan G be taken solely from IRA B. Financial Advisor E mailed Taxpayer A a distribution request form for IRA B, for which Taxpayer A was expected to use to request the distribution of Amount 2. Amount 2 was transferred to Account H, a joint account held by Taxpayer A and his spouse at Financial Institution C, where the funds have remained unused.

Taxpayer A represents that he did not discover the error until , when Plan G's administrator informed Taxpayer A that he was required to take a RMD of Amount 1 from Plan G for tax year . On , Taxpayer A received a distribution of Amount 1 from Plan G. Upon confirmation with Financial Institution C that the distribution from IRA B could only be used to satisfy the RMD for IRA B, Taxpayer A requested that Financial Institution C reverse the distribution of Amount 1, but Financial Institution C was unable to do so, because the 60-day period prescribed by section 408(d)(3) had long since passed.

Taxpayer A provided correspondence from Individual I at Financial Institution C that acknowledges Taxpayer A's request for the distribution of Amount 2 from IRA B was based on Financial Advisors E and F "inadvertently believing" that Taxpayer A could satisfy his RMD amounts for both IRA B and Plan G with one payment from IRA B. The letter indicates Financial Institution C would accommodate Taxpayer A in this matter, in the event the Internal Revenue Service (IRS) declined to grant a waiver of the 60-day period.

Based on the facts and representations, you request a ruling that the IRS waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60^{th} day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60^{th} day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I).

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 provides that in determining whether to grant a waiver of the 60-day rollover requirement under section 408(d)(3)(I), the IRS will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability or hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a rollover of Amount 1 within the 60-day period was due to a mistake by Financial Advisors E and F which resulted in Amount 1 (the portion of Amount 2 attributed to the RMD amount for Plan G) being distributed from IRA B in error. Financial Institution C has acknowledged that the advice given to Taxpayer A was inadvertent.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the IRS hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B. Taxpayer A is granted a period of 60 days from the date of issuance of this ruling letter to contribute a sum up to Amount 1 into IRA B or another rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to the contribution, the contribution of a sum up to Amount 1 will be considered a valid rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you have any questions, please contact (I.D. #) by phone at or fax at . Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,

Carlton A. Watkins

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:
Deleted Copy of Ruling Letter
Notice of Intention to Disclose